

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of KAIDEN D. ELLIS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

GABRIEL ELLIS,

Respondent-Appellant.

UNPUBLISHED

May 15, 2007

No. 274737

Leelanau Circuit Court

Family Division

LC No. 06-007157-NA

Before: Hoekstra, P.J., and Fitzgerald and Owens, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(a)(ii), (f), and (h). We affirm.

First, respondent contends that the trial court clearly erred because the evidence was not sufficient to support the statutory grounds for termination. We disagree. We review the trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005).

The facts presented before the trial court indicate that respondent was addicted to drugs before and during the entire time that the minor child resided with his maternal aunt until respondent was incarcerated for illegal possession of drugs. Respondent did not visit, support, or contact the minor child for over two-and-a-half years, despite the provision in the guardianship that permitted supervised visitation provided that respondent could demonstrate that he was drug free. He did not seek custody. We find respondent's attempt to blame the guardians, his poverty, and his ignorance of the court system for his failure to communicate or provide any support for his child disingenuous.

Accordingly, clear and convincing evidence exists to support termination under MCL 712A.19b(3)(a)(ii). Respondent was not physically or mentally handicapped. He had the ability to visit and assist in the support of his child. His excuses do not provide good cause for his failure to do so. Clear and convincing evidence also exists to support termination under MCL 712A.19b(3)(f). Although it appears the court may have erred in terminating respondent's parental rights under MCL 712A.19b(3)(h) because respondent may not be incarcerated for two

years in the future, only one statutory ground need be proven to support an order terminating parental rights. *Gazella, supra* at 678.

Next, we find that the court did not clearly err in determining that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 354-355; 612 NW2d 407 (2000). The court did not impermissibly weigh the advantages of the guardian's home against respondent's home as respondent suggests. *In re JK*, 468 Mich 202, 214 n 21; 661 NW2d 216 (2003).

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Donald S. Owens